

THE HONORABLE MARSHA J. PECHMAN

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANCORA TECHNOLOGIES, INC.,

Plaintiff,

v.

TOSHIBA AMERICA INFORMATION  
SYSTEMS, INC., DELL INC., HEWLETT-  
PACKARD COMPANY,

Defendant,

MICROSOFT CORPORATION,

Intervenor.

Case No. 2:09-cv-00270-MJP

**STIPULATION AND ORDER TO  
FACILITATE CONSOLIDATION OF  
ACTIONS BETWEEN THE PARTIES**

**NOTED: April 29, 2009**

**STIPULATION**

The parties, through counsel, stipulate as follows:

1. This "Patent Action" (*Ancora Technologies, Inc. v. Toshiba America Information Systems, Inc., et al.*, SACV 08-626 AG (MLGx) (C.D. Cal.)) was transferred from the United States District Court for the Central District of California to this Court by an order entered on February 27, 2009.

1           2.       The claims raised in the present pleadings of the Patent Action include:  
2 Plaintiff Ancora Technologies, Inc.'s ("Ancora's") claims for alleged infringement of U.S.  
3 Patent No. 6,411,941 (the "'941 Patent") against Defendants Toshiba America Information  
4 Systems, Inc. ("TAIS"), Dell Inc. ("Dell"), and Hewlett Packard Company ("HP"), and  
5 Intervenor Microsoft Corporation ("Microsoft"); claims for declaratory relief related to  
6 contentions by Microsoft, TAIS, HP and Dell that the '941 Patent is invalid, unenforceable and  
7 not infringed; and claims by Ancora against Microsoft for abuse of process and malicious  
8 prosecution arising from the "State Court Action" described in paragraph 3.

9           3.       The "State Court Action" (*Microsoft Corporation v. Miki Mullor and Ancora*  
10 *Technologies, Inc.*, No. 09-2-04665-4 SEA (King County Sup. Ct.)) is presently pending in the  
11 Washington Superior Court for King County. Microsoft's complaint in the State Court Action  
12 asserts claims against Ancora and its sole shareholder Miki Mullor, a former Microsoft  
13 employee. The claims asserted against Mullor alone include breach of contract, breach of  
14 fiduciary duty and fraud. The claims asserted against both Mullor and Ancora include claims  
15 for trade secret misappropriation and unjust enrichment.

16           4.       The parties agree that the claims in the State Court Action and in the Patent  
17 Action should be consolidated for disposition in a single lawsuit. To facilitate the  
18 consolidation, the parties agree to take, and request the Court to approve, the following steps:

- 19           a.       Ancora shall have leave to file an Amended Complaint including its patent  
20           infringement claims against TAIS, Dell, HP and Microsoft;
- 21           b.       Microsoft shall have leave to file an Amended Complaint in Intervention  
22           that adds to the existing declaratory judgment claims by Microsoft against  
23           Ancora, and the state law claims that Microsoft has asserted against Ancora  
24           and Mullor in the State Court Action;
- 25           c.       The parties shall respond to the foregoing amended pleadings as provided in  
                the Federal Rules of Civil Procedure;

- 1 d. Upon approval of this Stipulation by the Court, Microsoft shall dismiss the  
2 State Court Action without prejudice;
- 3 e. The outstanding document requests and interrogatories served by Ancora in  
4 this action and by Microsoft in the State Court Action shall all be deemed to  
5 have been served in the consolidated action. Responses to such discovery  
6 shall be due on April 29, 2009.

7 5. Pending dismissal of the State Court Action as set out in paragraph 4(d) above,  
8 Microsoft and Ancora have agreed to seek, and have sought, a continuation of the briefing  
9 schedule and hearing date for the motion to dismiss presently pending in the State Court  
10 Action.

11 6. The parties agree to accept service of the pleadings identified in paragraph 4  
12 above through their undersigned counsel. Each party agrees that it/he is subject to personal  
13 jurisdiction in this Court in connection with the claims identified in paragraph 4 of the  
14 consolidated action and that venue of the consolidated action is proper in this Court.

15 SO STIPULATED AND AGREED:

16 DATED: April 29, 2009

DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

17 By /s/ Arthur W. Harrigan, Jr.  
18 Arthur W. Harrigan, Jr., WSBA #1751  
19 Christopher T. Wion, WSBA #33207

PERKINS COIE BROWN & BAIN P.A.  
Chad S. Campbell (*Admitted pro hac vice*)  
cscampbell@perkinscoie.com  
2901 North Central Avenue, Suite 2000  
Phoenix, AZ 85012-2788  
Telephone: 602.351.8000  
Facsimile: 602.648.7000

*Attorneys for Intervenor Microsoft Corporation and  
Defendants Toshiba America Information Systems,  
Inc., Dell Inc., and Hewlett-Packard Company*

Stacy Quan, WSBA #21119  
Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052-6399  
Stacy.Quan@microsoft.com  
Telephone: (425) 882-8080

*Attorney for Intervenor Microsoft Corporation*

DATED: April 29, 2009

BROOKS KUSHMAN P.C.

By /s/ Marc Lorelli  
Mark A. Cantor (*admitted Pro Hac Vice*)  
John S. LeRoy (*admitted Pro Hac Vice*)  
Marc Lorelli (*admitted Pro Hac Vice*)  
1000 Town Center, Twenty-Second Floor  
Southfield, Michigan 48075  
Telephone: (248) 358-4400  
Facsimile: (248) 358-3351

SUSMAN GODFREY LLP  
Drew D. Hansen, WSBA #30467  
Floyd G. Short, WSBA #21632  
Dan Walker, WSBA #38876  
1201 Third Avenue, Suite 3800  
Seattle, WA 98101-3000  
Telephone: 206.516.3880  
Facsimile: 206.516.3883

*Attorneys for Plaintiff Ancora Technologies, Inc. and  
Miki Mullor*


1 **ORDER**

2 The Court has reviewed the Stipulation and Proposed Order to Facilitate  
3 Consolidation of Actions between the Parties and finds good cause therefor.

4 IT IS HEREBY ORDERED that the parties' Stipulation to Facilitate Consolidation of  
5 Actions between the Parties is approved and that the parties shall comply with the terms of the  
6 Stipulation.

7 **SO ORDERED.**

8 DATED: May 12, 2009.

9  
10   
11 Marsha J. Pechman  
12 United States District Judge  
13  
14

15 Presented by:  
16 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

17 By /s/ Arthur W. Harrigan, Jr.  
18 Arthur W. Harrigan, Jr., WSBA #1751  
19 Christopher T. Wion, WSBA #33207

20 PERKINS COIE BROWN & BAIN P.A.  
21 Chad S. Campbell (*Admitted pro hac vice*  
22 cscampbell@perkinscoie.com  
23 2901 North Central Avenue, Suite 2000  
24 Phoenix, AZ 85012-2788  
25 Telephone: 602.351.8000  
Facsimile: 602.648.7000

*Attorneys for Intervenor Microsoft Corporation and Defendants  
Toshiba America Information Systems, Inc., Dell Inc.,  
and Hewlett-Packard Company*

Stacy Quan, WSBA #21119  
Microsoft Corporation

STIPULATION AND ORDER TO FACILITATE  
CONSOLIDATION OF ACTIONS BETWEEN  
THE PARTIES -5-

LAW OFFICES  
DANIELSON HARRIGAN LEYH & TOLLEFSON LLP  
999 THIRD AVENUE, SUITE 4400  
SEATTLE, WASHINGTON 98104  
TEL., (206) 623-1700 FAX, (206) 623-8717

1 One Microsoft Way  
2 Redmond, WA 98052-6399  
3 Stacy.Quan@microsoft.com  
4 Telephone: (425) 882-8080  
5 *Attorney for Intervenor Microsoft Corporation*

6 **CERTIFICATE OF SERVICE**

7 I, Linda Bledsoe, swear under penalty of perjury under the laws of the State of  
8 Washington to the following:

- 9 1. I am over the age of 21 and not a party to this action.
- 10 2. On April 29, 2009 caused the preceding document to be served on counsel of  
11 record by CM/ECF, e-mail and U.S. Mail, postage prepaid.

12 SUSMAN GODFREY LLP  
13 Drew D. Hansen  
14 Floyd G. Short  
15 Dan Walker  
16 1201 Third Avenue, Suite 3800  
17 Seattle, WA 98101-3000  
18 Telephone: 206.516.3880  
19 Facsimile: 206.516.3883  
20 *Attorneys for Plaintiff Ancora Technologies,*  
21 *Inc. and Miki Mullor*

BROOKS KUSHMAN P.C.  
Mark A. Cantor (*admitted Pro Hac Vice*)  
John S. LeRoy (*admitted Pro Hac Vice*)  
Marc Lorelli (*admitted Pro Hac Vice*)  
1000 Town Center, Twenty-Second Floor  
Southfield, Michigan 48075  
Telephone: (248) 358-4400  
Facsimile: (248) 358-3351  
*Attorneys for Plaintiff Ancora Technologies,*  
*Inc. and Miki Mullor*

22 /s/ Linda Bledsoe  
23 LINDA BLEDSOE